

<sup>2</sup> The Board notes that, following the issuance of the November 2, 2010 OWCP decision and on appeal, appellant submitted new evidence. The Board is precluded from reviewing evidence which was not before OWCP at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c)(1).

On appeal, appellant requests that OWCP pay an outstanding medical bill for medical services rendered by a physician and physical therapist and reimburse her for her insurance copays, traveling expenses for fuel and medication.

### **FACTUAL HISTORY**

This case has previously been before the Board. On July 23, 2009 appellant, then a 44-year-old access control security officer, filed a traumatic injury (Form CA-1) alleging that on June 24, 2009 she sustained wrist pain due to continuous hand use in the performance of duty. Following a denial of her claim on September 9, 2009 she filed an appeal with the Board. On October 22, 2010 the Board issued an order remanding case for proper consideration of all the evidence of record and a *de novo* decision on the merits.<sup>3</sup>

In an October 20, 2009 medical report, Harris Patel, a physician's assistant, diagnosed tenosynovitis of hand/wrist and wrist sprain or strain. He reported that appellant worked with a joystick at work and her symptoms were made worse with activity. Mr. Patel indicated that x-rays of the wrist revealed no evidence of fracture, bone lesions or other abnormalities.

By decision dated November 2, 2010, OWCP denied appellant's claim on the basis that the factual and medical evidence submitted was insufficient to establish fact of injury. It found that the only medical diagnosis of record was provided by a physician's assistant who is not considered a physician under FECA unless the medical report is countersigned by a physician.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury<sup>5</sup> was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit sufficient

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<sup>3</sup> Docket No. 09-1653 (issued March 26, 2010).

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> OWCP's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

<sup>6</sup> *T.H.*, 59 ECAB 388 (2008). See *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989); *M.S.*, Docket No. 10-1798 (issued May 4, 2011).

evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.<sup>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>8</sup>

### ANALYSIS

OWCP accepted that the June 24, 2009 incident occurred as alleged. Given that appellant has established a June 24, 2009 employment incident, the question becomes whether the employment incident caused a compensable injury under FECA.<sup>9</sup> The Board finds that appellant did not submit sufficient medical evidence to support that the accepted employment incident caused or aggravated her condition.<sup>10</sup>

The medical report from Mr. Patel, a physician's assistant, is of no probative value as he is not a physician under FECA.<sup>11</sup> As such, the Board finds that appellant did not meet her burden of proof with this submission.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the indicated employment factors, she has failed to meet her burden of proof.

On appeal, appellant requested that OWCP pay an outstanding medical bill for medical services rendered by a physician and physical therapist and reimburse her for her insurance copays, traveling expenses for fuel and medication. OWCP, however, did not adjudicate the issue of appellant's incurred medical expenses. Ordinarily, the employing establishment will authorize treatment of a job-related injury by providing the employee a properly executed (Form

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<sup>7</sup> *Id.* See Shirley A. Temple, 48 ECAB 404 (1997); John J. Carlone, 41 ECAB 354 (1989).

<sup>8</sup> *Id.* See Gary J. Watling, 52 ECAB 278 (2001).

<sup>9</sup> See L.N., Docket No. 10-1695 (issued May 3, 2011).

<sup>10</sup> See Robert Broome, 55 ECAB 339 (2004).

<sup>11</sup> 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law." See also Paul Foster, 56 ECAB 208, 212 n.12 (2004); Joseph N. Fassi, 42 ECAB 677 (1991); Barbara J. Williams, 40 ECAB 649 (1989).

CA-16) within four hours.<sup>12</sup> In this case, the record does not contain a (Form CA-16) or any other authorization from OWCP for medical treatment. Additionally, there is no evidence of an emergency or other unusual circumstance.<sup>13</sup> Therefore, the Board finds that the evidence does not support reimbursement for the medical expenses.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty on June 24, 2009.

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<sup>12</sup> *Val D. Wynn*, 40 ECAB 666 (1989); *see also D.R.*, Docket No. 10-899 (issued January 6, 2011); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (September 1995).

<sup>13</sup> Under section 8103 of FECA, OWCP has broad discretionary authority to approve unauthorized medical care which it finds necessary and reasonable in cases of emergency or other unusual circumstances. 5 U.S.C. § 8103; 20 C.F.R. § 10.304. *See L.B.*, Docket No. 10-469 (issued June 2, 2010); *see also Val D. Wynn, D.R.*, and Chapter 3.300.3(a)(3), *supra*, note 12.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 2, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board